

AMENDMENT UNDER 37 C.F.R. § 1.111

Application No.: 10/554,026

Attorney Docket No.: Q90951

**REMARKS**

Claims 1-14 are all the claims pending in the application. Claims 3, 4, 6, and 8 to 14 have been withdrawn from consideration. Claims 1, 2, 5, 7, and 8 have been amended. Claims 1 to 8 have been amended to improve the clarity thereof. Further, the specification supports the amendment to claim 1, such as on pages 17-18.

**I. Claim Rejections - 35 U.S.C. § 101**

Claims 1, 2, 5, and 7 are rejected under 35 U.S.C. § 101 because the claimed invention allegedly is directed to non-statutory subject matter.

The Examiner asserts that the claims do not distinguish the claimed protein from its naturally occurring form (i.e., inside the body).

Amended claim 1 recites that the a pharmaceutical agent is present in the claimed composition. In this regard, it appears that claim 1 is not directed to the protein in its naturally occurring form.

**II. Claim Rejections - 35 U.S.C. § 112**

Claims 1, 2, 5, and 7 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

The Examiner contends that claims 1 and 2 are unclear. The Examiner asserts that claim 1 is unclear as claim 1 is drawn to an apoptosis inducing “agent,” but recites that the claimed protein is an active ingredient. Further, the Examiner asserts that claim 2 fails to identify whether the partial peptide thereof has apoptosis inducing activity.

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Claims 1 and 2 have been amended to be drawn to an apoptosis-inducing composition, rather than an apoptosis-inducing agent. Further, claim 2 has been amended to recite that the partial peptide thereof has apoptosis-inducing activity.

**III. Claim Rejections - 35 U.S.C. § 102**

Claims 1, 2, 5, and 7 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Lie *et al.* "The FBP Interacting Repressor Targets TFIIH to Inhibit Activated Transcription," *Molecular Cell*, vol. 5, 331-341 (February 2000) ("Liu").

Claim 1 presently recites a pharmaceutical composition.

Liu discloses purifying recombinant protein from *E. coli* transformed with pGEX, pGEX-FBP, or pGEX-FIR. *See* page 339. Liu fails to disclose that the protein thereof is mixed with a pharmaceutical agent as recited in claim 1. In this regard, Liu fails to describe or suggest the composition presently recited in claim 1.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Ken Sakurabayashi  
Registration No. 58,490

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE  
**23373**  
CUSTOMER NUMBER

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